

ARTICLE 27.
MISCELLANEOUS

28.1 Terms and Conditions.

All Services shall be delivered or performed in accordance with the Contract Documents.

28.2 Complete Agreement.

This Agreement, together with the attached Exhibit(s) and Schedule(s), the Purchase Order(s) or similar writings issued by Exelon to Contractor relating to this Agreement, any other specifications, drawings, or other documents specifically referenced in any of the foregoing sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements, or understandings, relating to the subject matter hereof.

28.3 Notices.

Any notice pertaining to the Work performed or a Purchase Order shall be in writing (unless in an emergency and then promptly thereafter in writing) and sent via facsimile transmittal, registered or certified mail (postage prepaid), or by commercial overnight courier, to Exelon's Designated Representative or Contractor's Designated Representative as appropriate, at their respective addresses appearing in the Purchase Order, or if no Purchase Order has been issued, to the party designated in this Agreement. Notices shall be effective only when received.

28.4 Captions.

Captions used herein and in the attached Exhibit(s) and Schedule(s) and the other Contract Documents, are for the convenience of the parties and shall not be used in construing the meaning of this Agreement.

28.5 Binding Effect; Execution; Counterparts.

The execution, delivery and performance by the parties of this Agreement and the transactions contemplated hereby have been duly authorized by all necessary corporate actions of the parties. This Agreement shall not be binding or effective until properly executed by each of the parties hereto. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same Agreement, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.

28.6 Survivability.

The provisions of the Contract Documents, and rights and obligations therein and in this Agreement, including with respect to indemnification, limits of liability, intellectual property and confidentiality, shall survive expiration (by performance) or termination of this Agreement or a Purchase Order and shall survive indefinitely, except to the extent that such provision by its express terms ends sooner.

28.7 No Third-Party Beneficiaries.

No provision of this Agreement is intended or shall be construed to be for the benefit of any third-party (other than Exelon Parties in connection with Contractor's indemnification obligations hereunder and a

joint owner of a plant or facility, whether as a tenant-in-common or otherwise, for which the Work is intended).

28.8 Publicity.

With the sole exception of publication of such information within Contractor's corporate entity and subject to the Confidentiality provisions of this Agreement, Contractor shall not refer to Exelon or any company affiliated with Exelon in any advertising or other publication in connection with Work performed by Contractor, without the prior written approval of Exelon, except for a brief description of the project utilized in statements of contractor qualifications. Contractor shall not, either directly or indirectly, publish or disclose any photographs, images, logos, copyrighted or trademark protected information of Exelon or its subsidiaries; or use such Information for the benefit of itself or any other person without the prior written consent of Exelon.

28.9 Assignment.

Subject to the provisions of this Agreement, Contractor shall not assign its interest (including any interest in or claim to monies owed) in this Agreement or a Purchase Order, or delegate any obligation under this Agreement or a Purchase Order, without the prior written consent of Exelon. An assignment shall include any transfer of a majority interest in Contractor by merger or otherwise. Any attempted assignment or delegation by Contractor shall be wholly void and totally ineffective for all purposes. No assignment or delegation made by Contractor with the consent of Exelon shall relieve Contractor of any of its obligations under this Agreement. Exelon reserves the right, without the consent of Contractor, to assign this Agreement or any Purchase Order, in whole or in part, to a third-party to be selected by Exelon.

28.10 Choice of Law; Interpretation; Severability.

This Agreement shall be construed and interpreted, without giving effect to principles of conflict of law, in accordance with the laws of the Commonwealth of Pennsylvania unless (i) Commonwealth Edison is the contracting party under the Purchase Order giving rise to the claim, in which case this Agreement, as it relates to that Purchase Order, shall be construed and interpreted in accordance with the laws of the State of Illinois, or (ii) the Specific Project involves construction, in which case this Agreement shall be construed in accordance with the laws of the state where the Site is located. The provisions of this Agreement, as it relates to that Specific Project, shall be interpreted where possible in a manner to sustain their legality and enforceability. The unenforceability of any provision of this Agreement in a specific situation shall not affect the enforceability of that provision in another situation or the remaining provisions of this Agreement. Unless the context of the Contract Documents clearly requires otherwise, (i) "including" and "include" have the inclusive meaning frequently identified with the phrase "but not limited to" and (ii) references to the plural include the singular, the singular the plural, the part, the whole.

28.11 Amendments.

The terms of this Agreement shall be modified only by a written amendment. An amendment is a written document signed by an authorized representative of each party, which authorizes a change in this Agreement. No purported oral modification, waiver, or rescission of this Agreement by an employee or agent of Exelon shall operate as a modification, waiver, or rescission of any of the provisions of this Agreement. No course of prior dealing, usage of trade and course of performance shall be used to modify, supplement, or explain any terms of this Agreement. No waiver of any provision of this Agreement shall be binding on Exelon or Contractor unless set forth in a writing signed by an authorized agent of Exelon and Contractor. No Affiliate shall be bound by an amendment executed by any other Affiliate.

28.12 Bankruptcy or Insolvency.

Contractor shall promptly notify Exelon in writing of the filing of any voluntary or involuntary petition for bankruptcy and/or of any insolvency of Contractor or any of its Subcontractors. Likewise, Exelon shall promptly notify Contractor in writing of any voluntary or involuntary bankruptcy and/or insolvency of Exelon. No Purchase Order shall be deemed an asset of Contractor.

28.13 Audit.

Purchase Orders, all payments received pursuant to such Purchase Orders, and Contractor's Work and workplace area and related offices shall be subject to reasonable audit and inspection by Exelon or any of its authorized representatives acting on Exelon's behalf. Contractor shall comply with all reasonable requests by Exelon to make available books and records necessary to substantiate Contractor's charges and invoices for reimbursement. Contractor shall also include in all Subcontracts issued in conjunction with any Purchase Order the right of Contractor and/or Exelon to audit the records of the Subcontractor. This Section 29.13 shall survive termination of the Purchase Orders for Specific Projects for a period of 2 years, or the warranty period, whichever is longer. Additionally, an audit may be conducted on any other records, such as environmental, safety, security or such other records as are necessary to ensure compliance with the Contract Documents.

28.14 Non-Waiver.

The failure of Exelon to insist upon strict performance by Contractor or Exelon's failure or delay in exercising any rights or remedies provided in this Agreement or by law shall not be deemed or construed as a waiver of any claims. No waiver by Exelon of a breach of any provision of this Agreement shall constitute or be construed as a waiver of any other breach or of that provision. No payment or certificate, final or otherwise, nor the acceptance of any design, shall be construed as (1) an acceptance of defective Work, (2) relieving Contractor of its obligations to make good any defects or consequences for which Contractor may be responsible, or (iii) a waiver of any obligations of Contractor under this Agreement.

28.15 Cumulative Remedies.

Each of Exelon's rights and remedies under this Agreement shall be cumulative and additional to any other or further rights or remedies provided in law or equity or otherwise. Exelon shall specifically retain all rights of legal action in tort under this Agreement on all issues relating to contribution, insurance coverage, and contractual indemnity.

28.16 Nondiscrimination and Affirmative Action.

Contractor shall, unless exempt, comply with the federal regulations pertaining to nondiscrimination and affirmative action (generally part 60-1 of Title 41 of the Code of Federal Regulations), including the following: (i) Affirmative Action Compliance Program (41 CFR 60-1.40); (ii) Affirmative Action - Disabled Veterans and Veterans of the Vietnam Era (41 CFR 60-250.4); (iii) Affirmative Action - Handicapped Workers (41 CFR 60-741.4); (iv) Equal Opportunity (41 CFR 60-1.4); (v) Employer Information Report SF-100, annual filing (41 CFR 60-1.7); (vi) Fair Labor Standards Act of 1938, as amended; (vii) Prohibition of Segregated Facilities (41 CFR 60-1.8); (viii) Small Business Concerns, Small Disadvantaged Business Concerns, and Women Owned Business Concerns (48 CFR Chapter 1, Subpart 19.7); and (ix) union-related posting and contract clause requirements under Executive Order 13201 (29 CFR, part 470). Contractor shall also comply, unless exempt, with any applicable state laws pertaining to nondiscrimination and affirmative action.

28.17 Diversity Supplier Spend.

Exelon is actively committed to supporting Diversity Suppliers as defined in Exelon Procedure No. SM-AC-4001, as amended from time to time. In support of Exelon's commitment, Contractor will make certain required expenditures with Diversity Suppliers as set forth in a Purchase Order or other writing from Exelon to Contractor. Contractor shall report its expenditures with Diversity Suppliers on a monthly basis unless another period is negotiated by the parties and set forth in the Purchase Order. Contractor shall provide this reporting information by completing the "2nd Tier Diversity Reporting Web form" located on Exelon's Supplier Diversity Website http://www.exeloncorp.com/supply/eed/tier2_report/tier2_report.shtml. Contractor can obtain a user-id and password for the 2nd Tier Diversity Reporting Website by contacting the Supplier Diversity Office at 215-841-5746. All submitted Diversity Suppliers must be supported by evidence of certification and Exelon's 2nd Tier Direct/Indirect Profile Form for consideration as 2nd Tier Diversity participation. Exelon recognizes a number of organizational certifications, including the following: Chicago Minority Business Development Council (MBE); Woman's Business Development Center (WBE); Illinois Department of Transportation (MBE/WBE); City of Chicago (MBE/WBE); WMBE Clearinghouse (MBE/WBE); Minority Supplier Development Council of PA, NJ and DE; Women's Business Enterprise Council of PA, NJ and DE; Minority Business Enterprise Council - City of Philadelphia; Bureau of Contract Administration and Business Development - Commonwealth of Pennsylvania.

Recognition for certifications held by any other Diversity Supplier accreditation organization must be submitted to Exelon's Diversity Manager for approval.

28.18 Illinois Commerce Commission Authority

Notwithstanding anything herein to the contrary or in any other agreement between the parties, and as required by the Illinois Commerce Commission's (the "Commission") Order on Rehearing in Docket Number 07-0540, dated March 26, 2008, the Commission has the right to approve or reject this Agreement; direct Exelon to terminate the Contractor, if the Commission determines that the Contractor is unable or unwilling to provide an independent evaluation; and approve any action by Exelon that would result in termination of the Contractor during the term of the Agreement.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this Agreement effective as of the Date on the cover page.

Commonwealth Edison Company,

acting by and through its agent,

Exelon Business Services Company, LLC

By: David A. Holmes
DAVID A. HOLMES

(Type or print name)

Title: SR. CATEGORY MGR.

Address for Notices issued pursuant to
this Agreement or prior to the execution
of a Purchase Order for a Specific Project

2301 MARKET STREET
PHILA, PA 19103

Attn: DAVID A. HOLMES

Facsimile No. 215-841-5005

Summit Blue Consulting, LLC

By: Kevin Cooney
Kevin Cooney

(Type or print name)

Title: CEO

Address for Notices issued pursuant to
this Agreement or prior to the execution
of a Purchase Order for a Specific Project

1722 14th Street, Suite 230
Boulder, Co 80302

Attn: Kevin Cooney

Facsimile No. 720-564-1145

**EXHIBIT A
EXELON AFFILIATES**

Exelon Business Services Company

Exelon Generation Company, LLC

AmerGen Energy Company, LLC

Exelon Enterprises Company, LLC (and its subsidiaries)

PECO Energy Company

Commonwealth Edison Company

EXHIBIT B

SCOPE OF WORK FOR SPECIFIC PROJECTS

SERVICES (Describe Scope):LIST OF CONTRACT DOCUMENTS FOR SPECIFIC PROJECT:

The Agreement, including all Exhibits, Schedules, and any written Amendments which may be agreed to by the parties; Purchase Order for a Specific Project, including the Project Schedule, or other Exhibits; Special Terms and Conditions; Drawings; Specifications; Contractor Specifications; Exelon's Request for Proposal (if one is used); _____.

LIQUIDATED DAMAGES:

The parties agree that it would be extremely difficult and impracticable under the presently known and anticipated facts and circumstances to ascertain and fix the actual damages Exelon would suffer should Contractor delay without basis under this Agreement or the Purchase Order in achieving Substantial Completion of this Specific Project identified in the Purchase Order or Project Schedule for this Specific Project and accordingly, the parties hereby agree that if Contractor fails to achieve Substantial Completion of the Work in accordance with the Purchase Order or the Project Schedule for this Specific Project, then Exelon may elect to recover from Contractor as liquidated damages for such delay, without prejudice to Exelon's other rights and remedies under this Agreement or the Purchase Order or at Law and not as a penalty, the sum of \$ _____ per day for each day between the scheduled date of Substantial Completion and the date Contractor or another Person on behalf of Exelon actually achieves Substantial Completion of this Specific Project. It is acknowledged and agreed by the parties that the liquidated damages in this Purchase Order relate solely to Contractor's delay in achieving Substantial Completion of this Specific Project and to no other obligation or duty of Contractor.

Limitation: Contractor's aggregate liability for liquidated damages pursuant to this Purchase Order for this Specific Project shall not exceed _____ percent of the total Contract price on this Specific Project.

Exelon's Designated Representative

By: _____

Name: _____

Address: _____

Phone / Fax: _____

Contractor's Designated Representative:

By:  _____Name: Kevin CooneyAddress: 1722 14th Street, Suite 230
Boulder, Co 80302Phone / Fax: 720-564-1130 /
720-564-1145 fax

EXHIBIT C
CERTIFICATE OF FINAL COMPLETION

**EXHIBIT D
PRICING SCHEDULE**

Prices

[List, including time period during which the prices
shall remain fixed (if less than the initial term)]

Additional Pricing Provisions. The following provisions shall apply to the Services provided under this Agreement (check all applicable boxes):

- ☐ **Prompt Payment Discount.** Invoices paid within _____ days after receipt by Exelon are subject to a discount of _____ percent of the amount invoiced.
- ☐ **Most Favored Customer Pricing.** Contractor agrees that in the event that, prior to the performance of the Services, it offers or charges prices to any other customer for such or any substantially similar services that are less than the prices charged to Exelon under this Agreement (in each case, after taking into consideration all discounts, allowances, rebates and other types of price and fee reduction mechanisms), the prices charged under this Agreement for the Services shall be deemed automatically revised to equal such lower prices and, in the event that Exelon shall be entitled to such lower prices but shall have made payment at any prices in excess thereof, Contractor shall promptly refund the difference in price to Exelon. Each invoice submitted by Contractor under this Agreement shall indicate the lowest price charged by Contractor to any other customer that purchases the same or any substantially services within the 90 day period immediately preceding the date of the invoice.
- ☐ **Right of First Refusal.** If, during the term of this Agreement, Exelon receives a bona fide offer from a third-party to provide the Services at prices that are less than the prices charged to Exelon under the Agreement, the parties agree to meet to negotiate in good faith an adjustment on a prospective basis to the prices charged to Exelon under this Agreement; provided, however, that if Contractor does not agree to reduce its prices to a level at or below the prices offered by such third-party, Exelon may thereafter terminate this Agreement or the Purchase Order thereunder upon 5 days' written notice to Contractor. In the event Exelon so terminates this Agreement or the Purchase Order, Exelon shall not be required to make any payments to Contractor with respect to Services that have not been performed, as of the date of termination, and shall be entitled to a credit against any payment (or portion thereof) previously made by Exelon to Contractor with respect to any such unperformed Services. In no event shall Exelon be responsible for overhead costs associated with Work not performed by Contractor, any profits Contractor would have earned if it had completed the Work, or any special, consequential, incidental, or indirect damages.
- ☐ **Incentive/Disincentive Payments.** As provided in this Agreement, Contractor is obligated to complete all Work on or prior to the date of Final Completion established in the Purchase Order or Project Schedule for the Specific Project. As an incentive to comply with such obligation, in the event that Contractor

completes its performance in advance of the agreed upon date of Final Completion, Exelon agrees to pay to Contractor the sum of \$_____ per day for each day between the actual date of Final Completion and the scheduled date of Final Completion. As a disincentive to fail to comply with such obligation, in the event that Contractor completes its performance after the agreed upon date of Final Completion, Exelon may assess delay charges equal to \$_____ per day for each day between the scheduled date of Final Completion and the actual date of Final Completion. Contractor acknowledges that any delay charges provided for in this paragraph shall not constitute liquidated damages, but instead shall be in addition to all other remedies available to Exelon under this Agreement.

- ☐ Other. The other provisions set forth in the Pricing Schedules attached hereto.

EXHIBIT E
THIRD PARTY PERSONNEL ACKNOWLEDGEMENT

I _____ ("Contractor Personnel"), acknowledge that I am an employee of _____ ("Contractor"). I acknowledge that my relationship with Exelon Corporation, its affiliates, subsidiaries or any of successor (the "Exelon Entities") is that of an independent contractor, not an employee of any of the Exelon Entities, and that all services performed by me for one or more of the Exelon Entities is pursuant to an Agreement between Exelon and _____ ("Contractor"), as an employee of Contractor or one of its Subcontractors, as applicable. I also acknowledge that during the period I perform services for or on behalf of the Exelon Entities pursuant to an arrangement with Contractor, I am not entitled to compensation of any kind from Exelon or to participate in any employee benefit plan or program of any kind offered to any employee of the Exelon Entities, and I expressly waive any and all such compensation and benefits. I understand that the preceding sentence will not prohibit me from receiving any earned and vested pension or retiree health care benefits from the Exelon Entities to which I may already be entitled as a former employee of one of the Exelon Entities.

In addition, I represent the following:

1. Check one: ☐ I am not a former employee of one of the Exelon Entities. OR

☐ I am a former employee of one of the Exelon Entities

2. If I am a former employee of one of the Exelon Entities:

A. My Exelon Employee ID number (if available) was: _____

B. Check one: ☐ I am not eligible to receive (and am not currently receiving) a benefit under an Exelon pension plan. OR ☐ I am eligible to receive benefits under an Exelon pension plan.

3. I am not currently employed by Exelon and will not accept employment with Exelon that commences during the period I am employed by Contractor.

4. If (a) I am an Exelon Retiree, I have not and will not provide any services on Exelon matters, or (b) I am not an Exelon Retiree, I have not provided, and will not provide, services designated by Exelon as "Staff Augmentation" services on Exelon matters, regardless of whether such services were provided by me as an employee of Contractor or any other third party employer or regardless

Exelon

of hours worked,

for a total period in excess of one year, unless Exelon has granted me a written exception to such one-year period prior to reaching the one year aggregate period.

CONTRACTOR PERSONNEL

Signed: _____

Print Name: _____

Date: _____

Note: An executed acknowledgement shall be provided to Contractor named above.